

Special Education Preappeal Rules
Iowa Administrative Code 281—41.106

281—41.106(256B,34CFR300) Special education preappeal conference.

41.106(1) *Procedures.* The parent, the LEA or the AEA may request a special education preappeal conference on any decision relating to the identification, evaluation, educational placement, or the provision of FAPE. Participation is voluntary.

- a.* A request for a special education preappeal conference shall be made in the form of a letter which identifies the student, LEA and AEA, sets forth the facts, the issues of concern, or the reasons for the conference. The letter shall be mailed to the department.
- b.* Within five business days of receipt of the request for the conference, the department shall contact all pertinent parties to determine whether participation is desired. A checklist shall be sent by the department to the LEA or AEA to receive information about the student.
- c.* A preappeal conference will be scheduled and held at a time and place reasonably convenient to all parties involved. Written notice will be sent to all parties by the department.
- d.* The LEA or the AEA shall submit the special education preappeal checklist to the department (with a copy to the parent) within ten business days after receiving the request.
- e.* The student's complete school record shall be made available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the preappeal.
- f.* The individual's complete school record shall be available to the participants at the preappeal conference.
- g.* The preappeal conference shall be chaired by a mediator provided by the department.
- h.* If an agreement is reached, a written summary of the preappeal agreement shall be prepared by the assigned mediator and disseminated to all parties involved within ten business days following the conference.
- i.* If agreement is not reached at the special education preappeal conference, all parties shall be notified of the procedures to be followed in filing a formal special education appeal as described in Division XI.

41.106(2) *Assurances.* The special education preappeal process shall in no way deny or delay a party's right to a full due process hearing if the party wishes to utilize the formal process. In addition, special education preappeal conference proceedings and offers of agreement during the conference shall not be entered as arguments or evidence in a hearing. However, the parties may stipulate to agreements reached in the special education preappeal conference.

41.106(3) *Placement during proceedings.* Unless the parties agree otherwise, the student involved in the preappeal must remain in the student's present educational placement during the pendency of the proceedings.

41.106(4) *Withdrawals or automatic closures.* The initiating party may request a withdrawal of the preappeal prior to the conference. Automatic closure of the department file will occur if any of the following circumstances apply:

- a.* One of the parties refuses to participate in the voluntary process.
- b.* The preappeal conference is held but parties are not able to reach an agreement. There will be a ten-calendar-day waiting period after the preappeal to continue the placement as described in subrule 41.106(3) in the event a party wishes to pursue a hearing.

c. The preappeal conference is held and parties are able to reach an agreement and the agreement does not specify a withdrawal date. If a withdrawal date is part of the agreement, an agency withdrawal will occur on the designated date.